



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed August 18, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids in regard to FoodShare benefits (FS), a hearing was held on September 23, 2015, at Medford, Wisconsin.

The issue for determination is whether the FoodShare agency correctly increased the petitioner's FoodShare allotment the month after she reported an additional person in her household.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]

Wood County Human Services - WI Rapids
220 Third Avenue South
Suite 4
Wisconsin Rapids, WI 54495

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Taylor County.
2. The petitioner is an ongoing FoodShare recipient.

3. The petitioner's child lives with her from June through August and with his father the rest of the year.
4. The petitioner reported on June 4, 2015, that her child had moved in with her for the summer. The agency increased her benefits as of July 2015.
5. The petitioner requests that she receive additional FoodShare for June 2015 because she had more persons in her household than she was given credit for.

DISCUSSION

The size of a FoodShare allotment depends upon net income and household size. When a change in benefits occurs depends upon when a change in circumstances is reported. Recipients must report a change of circumstances within 10 days. 7 CFR § 273.12(a)2. If the change will cause benefits to increase, the increase will occur the month after the change was reported. *FoodShare Wisconsin Handbook*, § 6.1.3.3; *see also* 7 CFR 273.12(c)(1).

The petitioner's child lives with her from June through August each year and his father the rest of the year. This year, the petitioner reported the change to the agency on June 4, 2015, and the agency increased her benefits in July. In August, the child's stepmother reported that he would move back to his father's house in September. Because she reported the change the month before it occurred, the agency reduced the petitioner's FoodShare and increased her former husband's allotment in September. As a result, although her child lived with her for three months, she only received additional benefits for two months. The child's father, on the other hand, received additional benefits one more month than the child actually lived with him.

I understand why the petitioner believes this is unfair, but I have no equitable powers that would allow me to consider the fairness of the situation. Each change in benefits in this matter followed a change of circumstances that was reported within the time allowed by FoodShare rules and was acted upon by the agency i the time allowed by those rules. I have no authority to overturn a result that occurred because the rules were properly followed. As I told the petitioner at the hearing, next year she should report in May that the child will move back in with her in June.

CONCLUSIONS OF LAW

The FoodShare agency correctly increased the petitioner's FoodShare allotment the month after she reported that her child had moved into her household.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

[REDACTED]

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

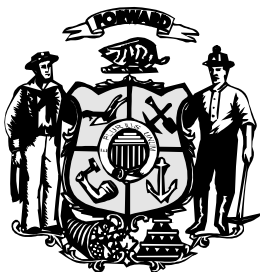
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 23rd day of September, 2015

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 23, 2015.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability